

HOUSE BILL 361

N1

8lr0262
CF SB 218

By: **The Speaker (By Request – Administration) and Delegates Niemann, Aumann, Barkley, Barnes, Barve, Benson, Bobo, Bohanan, Braveboy, Burns, G. Clagett, V. Clagett, Conway, Eckardt, Frick, Gaines, Griffith, Gutierrez, Guzzone, Haddaway, Healey, Hecht, Heller, Howard, Hucker, Ivey, James, Jones, Kaiser, Krysiak, Lafferty, Lee, Levi, Levy, Love, Manno, Mathias, McIntosh, Montgomery, Morhaim, Nathan-Pulliam, Pena-Melnyk, Ramirez, Riley, Ross, Shewell, Sophocleus, Stein, Stukes, Tarrant, F. Turner, V. Turner, Vaughn, Waldstreicher, and Walker**

Introduced and read first time: January 25, 2008

Assigned to: Environmental Matters and Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Protection of Homeowners in Foreclosure – Prohibition on Foreclosure**
3 **Rescue Transactions – Enforcement**

4 FOR the purpose of altering the applicability of certain provisions relating to the
5 protection of homeowners in foreclosure; altering the contents of a certain
6 foreclosure consulting contract; prohibiting a foreclosure consultant from
7 engaging in or arranging a foreclosure rescue transaction or receiving a
8 commission or money under certain circumstances; requiring a foreclosure
9 consultant to be licensed as a real estate broker and to provide certain research
10 to a homeowner under certain circumstances; repealing certain provisions
11 concerning foreclosure reconveyances; authorizing a homeowner to cancel a
12 contract for the sale or transfer of a residence in default under certain
13 circumstances; requiring a contract for the sale or transfer of a residence in
14 default to contain certain notices and attachments under certain circumstances;
15 imposing certain prohibitions on a purchaser of a residence in default;
16 authorizing the Commissioner of Financial Regulation to enforce certain
17 provisions concerning the protection of homeowners in foreclosure; making a
18 violation of this Act an unfair or deceptive trade practice under the Maryland
19 Consumer Protection Act; requiring the Attorney General or the State's
20 Attorney to notify the Commissioner of certain convictions; altering and
21 defining certain terms; making stylistic and conforming changes; and generally
22 relating to the protection of homeowners in foreclosure.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 BY repealing and reenacting, with amendments,
2 Article – Commercial Law
3 Section 13–301(14)(xxii)
4 Annotated Code of Maryland
5 (2005 Replacement Volume and 2007 Supplement)
- 6 BY adding to
7 Article – Commercial Law
8 Section 13–301(14)(xxiv)
9 Annotated Code of Maryland
10 (2005 Replacement Volume and 2007 Supplement)
- 11 BY repealing and reenacting, with amendments,
12 Article – Real Property
13 Section 7–301 to be under the amended subtitle “Subtitle 3. Protection of
14 Homeowners in Foreclosure Act”, 7–302, 7–305, 7–306, and 7–307; and
15 7–310 to be under the amended part “Part III. Sales or Transfers of
16 Residences in Default”, 7–311, 7–314, 7–315, 7–319, and 7–320
17 Annotated Code of Maryland
18 (2003 Replacement Volume and 2007 Supplement)
- 19 BY adding to
20 Article – Real Property
21 Section 7–308, 7–309, 7–310, 7–313, 7–318.1, and 7–322; and 7–325 to be under
22 the new part “Part VI. Short Title”
23 Annotated Code of Maryland
24 (2003 Replacement Volume and 2007 Supplement)
- 25 BY repealing and reenacting, without amendments,
26 Article – Real Property
27 Section 7–318 and 7–321
28 Annotated Code of Maryland
29 (2003 Replacement Volume and 2007 Supplement)

30 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
31 MARYLAND, That the Laws of Maryland read as follows:

32 **Article – Commercial Law**

33 13–301.

34 Unfair or deceptive trade practices include any:

35 (14) Violation of a provision of:

36 (xxii) Section 14–1319 or § 14–1320 of this article; [or]

1 (XXIV) TITLE 7, SUBTITLE 3 OF THE REAL PROPERTY
2 ARTICLE, THE PROTECTION OF HOMEOWNERS IN FORECLOSURE ACT; OR

3 Article – Real Property

4 Subtitle 3. Protection of Homeowners in Foreclosure ACT.

5 7–301.

6 (a) In this subtitle the following words have the meanings indicated.

7 (B) “COMMISSIONER” MEANS THE COMMISSIONER OF FINANCIAL
8 REGULATION IN THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION.

9 [(b)] (C) “Foreclosure consultant” means a person who:

10 (1) Solicits or contacts a homeowner in writing, in person, or through
11 any electronic or telecommunications medium and directly or indirectly makes a
12 representation or offer to perform any service that the person represents will:

13 (i) Stop, enjoin, delay, void, set aside, annul, stay, or postpone a
14 foreclosure sale;

15 (ii) Obtain forbearance from any servicer, beneficiary or
16 mortgagee;

17 (iii) Assist the homeowner to exercise a right of reinstatement
18 provided in the loan documents or to refinance a loan that is in foreclosure and for
19 which notice of foreclosure proceedings has been published;

20 (iv) Obtain an extension of the period within which the
21 homeowner may reinstate the homeowner’s obligation or extend the deadline to object
22 to a ratification;

23 (v) Obtain a waiver of an acceleration clause contained in any
24 promissory note or contract secured by a mortgage on a residence in [foreclosure]
25 DEFAULT or contained in the mortgage;

26 (vi) Assist the homeowner to obtain a loan or advance of funds;

27 (vii) Avoid or ameliorate the impairment of the homeowner’s
28 credit resulting from the filing of an order to docket or a petition to foreclose or the
29 conduct of a foreclosure sale;

30 (viii) Save the homeowner’s residence from foreclosure;

1 (ix) Purchase or obtain an option to purchase the homeowner's
2 residence within 20 days of an advertised or docketed foreclosure sale; **OR**

3 (x) Arrange for the homeowner to become a lessee or renter
4 entitled to continue to reside in the homeowner's residence **AFTER A SALE OR**
5 **TRANSFER;**

6 [(xi) Arrange for the homeowner to have an option to repurchase
7 the homeowner's residence; or

8 (xii) Engage in any documentation, grant, conveyance, sale,
9 lease, trust, or gift by which the homeowner clogs the homeowner's equity of
10 redemption in the homeowner's residence;] or

11 (2) Systematically contacts owners of [property that court records or
12 newspaper advertisements show are in foreclosure or in danger of foreclosure]
13 **RESIDENCES IN DEFAULT TO OFFER FORECLOSURE CONSULTING SERVICES.**

14 [(c)] (D) "Foreclosure consulting contract" means a written, oral, or
15 equitable agreement between a foreclosure consultant and a homeowner for the
16 provision of any foreclosure consulting service [or foreclosure reconveyance].

17 [(d)] (E) "Foreclosure consulting service" includes:

18 (1) Receiving money for the purpose of distributing it to creditors in
19 payment or partial payment of any obligation secured by a lien on a residence in
20 [foreclosure] **DEFAULT;**

21 (2) Contacting creditors on behalf of a homeowner;

22 (3) Arranging or attempting to arrange for an extension of the period
23 within which a homeowner may cure the homeowner's default and reinstate the
24 homeowner's obligation;

25 (4) Arranging or attempting to arrange for any delay or postponement
26 of the sale of a residence in [foreclosure] **DEFAULT;**

27 (5) Arranging or facilitating the purchase of a homeowner's equity of
28 redemption or legal or equitable title [within 20 days of an advertised or docketed
29 foreclosure sale];

30 (6) [Arranging or facilitating any transaction through which a
31 homeowner will become a lessee, optionee, life tenant, partial homeowner, or vested or
32 contingent remainderman of the homeowner's residence;

1 (7)] Arranging or facilitating the sale of a homeowner's residence or the
2 transfer of legal title, in any form, to another party as an alternative to foreclosure; **OR**

3 [(8) Arranging for a homeowner to have an option to repurchase the
4 homeowner's residence after a sale or transfer;

5 (9)] **(7)** Arranging for or facilitating a homeowner remaining in the
6 homeowner's residence **AFTER A SALE OR TRANSFER** as a tenant, renter, or lessee
7 **UNDER TERMS PROVIDED IN A WRITTEN LEASE**]; or

8 (10) Arranging or facilitating any other grant, conveyance, sale, lease,
9 trust, or gift by which a homeowner clogs the homeowner's equity of redemption in the
10 homeowner's residence].

11 [(e) "Foreclosure purchaser" means a person who acquires title or possession
12 of a deed or other document to a residence in foreclosure as a result of a foreclosure
13 reconveyance.

14 (f) "Foreclosure reconveyance" means a transaction involving:

15 (1) The transfer of title to real property by a homeowner during or
16 incident to a proposed foreclosure proceeding, either by transfer of interest from the
17 homeowner to another party or by creation of a mortgage, trust, or other lien or
18 encumbrance during the foreclosure process that allows the acquirer to obtain legal or
19 equitable title to all or part of the property; and

20 (2) The subsequent conveyance, or promise of a subsequent
21 conveyance, of an interest back to the homeowner by the acquirer or a person acting in
22 participation with the acquirer that allows the homeowner to possess the real property
23 following the completion of the foreclosure proceeding, including an interest in a
24 contract for deed, purchase agreement, land installment sale, contract for sale, option
25 to purchase, lease, trust, or other contractual arrangement.]

26 **(F) "FORECLOSURE RESCUE TRANSACTION" MEANS A TRANSACTION:**

27 **(1) IN WHICH A RESIDENCE IN DEFAULT IS CONVEYED BY A**
28 **HOMEOWNER WHO RETAINS A LEGAL OR EQUITABLE INTEREST IN ALL OR PART**
29 **OF THE PROPERTY, INCLUDING AN INTEREST UNDER A LEASE-PURCHASE**
30 **AGREEMENT, AN OPTION TO REACQUIRE THE PROPERTY, OR ANY OTHER LEGAL**
31 **OR EQUITABLE INTEREST IN THE PROPERTY CONVEYED; AND**

32 **(2) THAT IS DESIGNED OR INTENDED BY THE PARTIES TO**
33 **PREVENT OR DELAY ACTUAL OR ANTICIPATED FORECLOSURE PROCEEDINGS**
34 **AGAINST THE RESIDENCE IN DEFAULT.**

1 (g) “Foreclosure surplus acquisition” means a transaction involving the
2 transfer, sale, or assignment of the surplus remaining and due the homeowner based
3 on the audit account during a foreclosure proceeding.

4 (h) (1) “Foreclosure surplus purchaser” means a person who acts as the
5 acquirer by assignment, purchase, grant, or conveyance of the surplus resulting from a
6 foreclosure sale.

7 (2) “Foreclosure surplus purchaser” includes a person who acts in joint
8 venture or joint enterprise with one or more acquirers.

9 (i) “Homeowner” means the record owner of a residence in **DEFAULT OR A**
10 **RESIDENCE IN** foreclosure, or an individual occupying the residence under a use and
11 possession order issued under Title 8, Subtitle 2 of the Family Law Article[, at the
12 time an order to docket or a petition to foreclose is filed].

13 **(J) “RESIDENCE IN DEFAULT” MEANS RESIDENTIAL REAL PROPERTY**
14 **LOCATED IN THE STATE CONSISTING OF NOT MORE THAN FOUR SINGLE FAMILY**
15 **DWELLING UNITS, ONE OF WHICH IS OCCUPIED BY THE OWNER, OR THE**
16 **OWNER’S SPOUSE OR FORMER SPOUSE UNDER A USE AND POSSESSION ORDER**
17 **ISSUED UNDER TITLE 8, SUBTITLE 2 OF THE FAMILY LAW ARTICLE, AS THE**
18 **INDIVIDUAL’S PRINCIPAL PLACE OF RESIDENCE, AND ON WHICH THE**
19 **MORTGAGE IS AT LEAST 30 DAYS IN DEFAULT.**

20 [(j)] **(K)** “Residence in foreclosure” means residential real property
21 **LOCATED IN THE STATE** consisting of not more than four single family dwelling
22 units, one of which is occupied by the owner, or the owner’s spouse or former spouse
23 under a use and possession order issued under Title 8, Subtitle 2 of the Family Law
24 Article, as the individual’s principal place of residence, and against which an order to
25 docket or a petition to foreclose has been filed.

26 7–302.

27 (a) Except as provided in subsection (b) of this section, this subtitle does not
28 apply to:

29 (1) An individual admitted to practice law in the State, while
30 performing any activity related to the individual’s regular practice of law in the State;

31 (2) [A person who holds or is owed an obligation secured by a lien on
32 any residence in foreclosure while the person performs services in connection with the
33 obligation or lien, if the obligation or lien did not arise as a result of a foreclosure
34 reconveyance;

35 (3)] (i) A person doing business under any law of this State or the
36 United States regulating banks, trust companies, savings and loan associations, credit

1 unions, or insurance companies, while the person performs services as a part of the
2 person's normal business activities; and

3 (ii) Any subsidiary, affiliate, or agent of a person described in
4 item (i) of this item, while the subsidiary, affiliate, or agent performs services as a part
5 of the subsidiary's, affiliate's, or agent's normal business activities;

6 [(4)] (3) A judgment creditor of the homeowner, if the judgment
7 creditor's claim accrued before the written notice of foreclosure sale required under §
8 7-105(b) of this title is sent;

9 [(5) A title insurer authorized to conduct business in the State, while
10 performing title insurance and settlement services;

11 (6) A title insurance producer licensed in the State, while performing
12 services in accordance with the person's license;

13 (7) A person licensed as a mortgage broker or mortgage lender under
14 Title 11, Subtitle 5 of the Financial Institutions Article while acting under the
15 authority of that license;

16 (8) A person licensed as a real estate broker, associate real estate
17 broker, or real estate salesperson under Title 17 of the Business Occupations and
18 Professions Article, while the person engages in any activity for which the person is
19 licensed under those provisions so long as any conveyance or transfer of deed, title, or
20 establishment of equitable interest is done through a settlement as defined in
21 § 7-311(a)(5) of this subtitle;] or

22 [(9)] (4) A nonprofit organization that solely offers counseling or
23 advice to homeowners in foreclosure or loan default, if the organization is not directly
24 or indirectly related to and does not contract for services with for-profit lenders or
25 foreclosure purchasers.

26 (b) This subtitle does apply to an individual who:

27 (1) Is functioning in a position listed under subsection (a) of this
28 section; and

29 (2) Is engaging in activities or providing services designed or intended
30 to transfer title to a residence in [foreclosure] **DEFAULT** directly or indirectly to that
31 individual, **A RELATIVE OF THAT INDIVIDUAL**, or an agent or affiliate of that
32 individual.

33 7-305.

34 (a) In addition to any other right under law to cancel [or rescind] a contract,
35 a homeowner has the right to[:

1 (1) Rescind] **CANCEL** a foreclosure consulting contract at any time[;
2 and

3 (2) Rescind a foreclosure reconveyance at any time before midnight of
4 the 3rd business day after any conveyance or transfer in any manner of legal or
5 equitable title to a residence in foreclosure].

6 (b) [Rescission] **CANCELLATION** occurs when the homeowner gives written
7 notice of [rescission] **CANCELLATION** to the foreclosure consultant at the address
8 specified in the contract or through any facsimile or electronic mail address identified
9 in the contract or other materials provided to the homeowner by the foreclosure
10 consultant.

11 (c) Notice of [rescission] **CANCELLATION**, if given by mail, is effective when
12 deposited in the United States mail, properly addressed, with postage prepaid.

13 (d) Notice of [rescission] **CANCELLATION** need not be in the form provided
14 with the contract and is effective, however expressed, if it indicates the intention of
15 the homeowner to [rescind] **CANCEL** the foreclosure consulting contract [or
16 foreclosure reconveyance].

17 (e) [As part of] **AFTER** the [rescission] **CANCELLATION** of a foreclosure
18 consulting contract [or foreclosure reconveyance], the homeowner shall repay, within
19 60 days from the date of [rescission] **CANCELLATION**, any funds paid or advanced by
20 the foreclosure consultant or anyone working with the foreclosure consultant under
21 the terms of the foreclosure consulting contract [or foreclosure reconveyance], together
22 with interest calculated at the rate of 8% a year.

23 (f) The right to [rescind] **CANCEL** may not be conditioned on the repayment
24 of any funds.

25 7-306.

26 (a) A foreclosure consulting contract shall:

27 (1) Be provided to the homeowner for review before signing;

28 (2) Be printed in at least 12 point type and written in the same
29 language that is used by the homeowner and was used in discussions with the
30 foreclosure consultant to describe the consultant's services or to negotiate the contract;

31 (3) Fully disclose the exact nature of the foreclosure consulting
32 services to be provided, including any [foreclosure reconveyance] **SALE OR TENANCY**
33 that may be involved, and the total amount and terms of any compensation **FROM**

1 ANY SOURCE to be received by the foreclosure consultant or anyone working in
2 association with the consultant;

3 (4) STATE THE DUTY OF THE FORECLOSURE CONSULTANT TO
4 PROVIDE THE HOMEOWNER WITH WRITTEN COPIES OF ANY RESEARCH THE
5 FORECLOSURE CONSULTANT HAS REGARDING THE VALUE OF THE
6 HOMEOWNER’S RESIDENCE IN DEFAULT, INCLUDING ANY INFORMATION ON
7 SALES OF COMPARABLE PROPERTIES OR ANY APPRAISALS;

8 (5) Be dated and personally signed by the homeowner and the
9 foreclosure consultant and be witnessed and acknowledged by a notary public
10 appointed and commissioned by the State; and

11 [(5)] (6) Contain the following notice, which shall be printed in at
12 least 14 point boldface type, completed with the name of the foreclosure consultant,
13 and located in immediate proximity to the space reserved for the homeowner’s
14 signature:

15 “NOTICE REQUIRED BY MARYLAND LAW

16 (Name) or anyone working for him or her CANNOT ask you to
17 sign or have you sign any lien, mortgage, or deed as part of signing this
18 agreement unless the terms of the transfer are specified in this document and
19 you are given a separate explanation of the precise nature of the transaction.
20 **THE SEPARATE EXPLANATION MUST INCLUDE: HOW MUCH MONEY YOU**
21 **MUST PAY; HOW MUCH MONEY YOU WILL RECEIVE, IF ANY; AND HOW**
22 **MUCH MONEY THE FORECLOSURE CONSULTANT WILL RECEIVE FROM ANY**
23 **SOURCE.**

24 (Name) or anyone working for him or her CANNOT guarantee
25 you that they will be able to refinance your home or arrange for you to keep
26 your home. Continue making mortgage payments until a refinancing, if
27 applicable, is approved.

28 **YOU HAVE THE RIGHT TO CANCEL THIS FORECLOSURE CONSULTING**
29 **CONTRACT AT ANY TIME BY INFORMING THE FORECLOSURE CONSULTANT**
30 **THAT YOU WANT TO CANCEL THE CONTRACT. SEE THE ATTACHED NOTICE**
31 **OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT. AFTER**
32 **ANY CANCELLATION, YOU MUST REPAY, WITHIN 60 DAYS, ANY MONEY**
33 **SPENT ON YOUR BEHALF AS A RESULT OF THIS AGREEMENT, ALONG WITH**
34 **INTEREST CALCULATED AT THE RATE OF 8% A YEAR.**

35 If a **CONTRACT TO SELL OR** transfer [of] the deed or title to your
36 property is involved in any way, you may [rescind the transfer] **CANCEL THAT**
37 **CONTRACT AT** any time within [3] **5** days after the date you sign [the deed or
38 other document of sale or transfer] **THAT CONTRACT AND YOU ARE**

1 **INFORMED OF THIS RIGHT.** [See the attached Notice of Rescission form for an
2 explanation of this right.] [As part of] **AFTER** any [rescission]
3 **CANCELLATION**, you must repay, within 60 days, any money spent on your
4 behalf as a result of this agreement, along with interest calculated at the rate of
5 8% a year.

6 **THIS IS AN IMPORTANT LEGAL CONTRACT AND COULD RESULT**
7 **IN THE LOSS OF YOUR HOME. CONTACT AN ATTORNEY BEFORE**
8 **SIGNING.”.**

9 (b) The contract shall contain on the first page, in at least 12 point type size:

10 (1) The name and address of the foreclosure consultant to which the
11 notice of cancellation is to be mailed; and

12 (2) The date the homeowner signed the contract.

13 (c) (1) The contract shall be accompanied by a completed form in
14 duplicate, captioned “**NOTICE OF [RESCISSION] CANCELLATION**”.

15 (2) The Notice of [Rescission] **CANCELLATION** shall:

16 (i) Be on a separate sheet of paper attached to the contract;

17 (ii) Be easily detachable; and

18 (iii) Contain the following statement printed in at least 15 point
19 type:

20 **“NOTICE OF [RESCISSION] CANCELLATION**

21 (Date of Contract)

22 You may cancel [or rescind] this **FORECLOSURE CONSULTING** contract,
23 without any penalty, at any time.

24 If you want to [end] **CANCEL** this contract, mail or deliver a signed and
25 dated copy of this Notice of [Rescission] **CANCELLATION**, or any other written
26 notice indicating your intent to [rescind] **CANCEL** to (name of foreclosure
27 consultant) at (address of foreclosure consultant, including facsimile and
28 electronic mail).

29 [As part of] **AFTER** any [rescission] **CANCELLATION**, you (the
30 homeowner) must repay any money spent on your behalf as a result of this
31 agreement, within 60 days, along with interest calculated at the rate of 8% a
32 year.

1 This is an important legal contract and could result in the loss of your
2 home. Contact an attorney before signing.

3 NOTICE OF [RESCISSION] CANCELLATION

4 TO: (name of foreclosure consultant)

5 (address of foreclosure consultant, including facsimile and electronic mail)

6 I hereby [rescind] CANCEL this contract.

7 (Date)

8 (Homeowner’s signature)”.

9 (d) The foreclosure consultant shall provide the homeowner with a signed
10 and dated copy of the FORECLOSURE CONSULTING contract and the attached Notice
11 of [Rescission] CANCELLATION immediately upon execution of the contract.

12 (e) The time during which the homeowner may [rescind] CANCEL the
13 FORECLOSURE CONSULTING contract does not begin to run until the foreclosure
14 consultant has complied with this section.

15 (f) Any provision in a foreclosure consulting contract that attempts or
16 purports to waive any of the rights specified in this title, consent to jurisdiction for
17 litigation or choice of law in a state other than Maryland, consent to venue in a county
18 other than the county in which the property is located, or impose any costs or filing
19 fees greater than the fees required to file an action in a circuit court, is void.

20 7-307.

21 A foreclosure consultant may not:

22 (1) ENGAGE IN, ARRANGE, OFFER, PROMOTE, PROMISE, SOLICIT,
23 PARTICIPATE IN, ASSIST WITH, OR CARRY OUT A FORECLOSURE RESCUE
24 TRANSACTION;

25 (2) Claim, demand, charge, collect, or receive any compensation until
26 after the foreclosure consultant has fully performed each and every service the
27 foreclosure consultant contracted to perform or represented that the foreclosure
28 consultant would perform;

29 [(2)] (3) Claim, demand, charge, collect, or receive any interest or
30 any other compensation for any loan that the foreclosure consultant makes to the
31 homeowner that exceeds 8% a year;

1 [(3)] (4) Take any wage assignment, any lien of any type on real or
2 personal property, or other security to secure the payment of compensation;

3 [(4)] (5) Receive any consideration from any third party in
4 connection with foreclosure consulting services provided to a homeowner unless the
5 consideration:

6 (I) [is] **IS** first fully disclosed in writing to the homeowner;

7 (II) **IS CLEARLY LISTED ON ANY SETTLEMENT DOCUMENTS;**

8 **AND**

9 (III) **IS NOT IN VIOLATION OF ANY PROVISION OF THIS**
10 **SUBTITLE;**

11 (6) **RECEIVE A COMMISSION, REGARDLESS OF HOW DESCRIBED,**
12 **FOR THE SALE OF A RESIDENCE IN DEFAULT THAT EXCEEDS 8% OF THE SALES**
13 **PRICE;**

14 (7) **RECEIVE ANY MONEY TO BE HELD IN ESCROW OR ON A**
15 **CONTINGENT BASIS ON BEHALF OF THE HOMEOWNER;**

16 [(5)] (8) Acquire any interest, directly or indirectly, or by means of a
17 subsidiary, affiliate, or corporation in which the foreclosure consultant or a member of
18 the foreclosure consultant's immediate family is a primary stockholder, in a residence
19 in [foreclosure] **DEFAULT** from a homeowner with whom the foreclosure consultant
20 has contracted;

21 [(6)] (9) Take any power of attorney from a homeowner for any
22 purpose, except to inspect documents as provided by law; or

23 [(7)] (10) Induce or attempt to induce any homeowner to enter into a
24 foreclosure consulting contract that does not comply in all respects with this subtitle.

25 **7-308.**

26 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
27 **MEANINGS INDICATED.**

28 (2) **“LICENSE” HAS THE MEANING STATED IN § 17-101(G) OF THE**
29 **BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.**

30 (3) **“PROVIDE REAL ESTATE BROKERAGE SERVICES” HAS THE**
31 **MEANING STATED IN § 17-101(L) OF THE BUSINESS OCCUPATIONS AND**
32 **PROFESSIONS ARTICLE.**

1 **(B) A FORECLOSURE CONSULTANT WHO PROVIDES REAL ESTATE**
2 **BROKERAGE SERVICES SHALL BE LICENSED AS REQUIRED UNDER TITLE 17 OF**
3 **THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.**

4 **(C) A FORECLOSURE CONSULTANT SHALL PRESENT A COPY OF THE**
5 **LICENSE TO A HOMEOWNER NO LATER THAN THE TIME A FORECLOSURE**
6 **CONSULTING CONTRACT IS EXECUTED.**

7 **7-309.**

8 **(A) A FORECLOSURE CONSULTANT HAS A DUTY TO PROVIDE THE**
9 **HOMEOWNER WITH WRITTEN COPIES OF ANY RESEARCH THE FORECLOSURE**
10 **CONSULTANT HAS REGARDING THE VALUE OF THE HOMEOWNER'S RESIDENCE**
11 **IN DEFAULT, INCLUDING ANY INFORMATION ON SALES OF COMPARABLE**
12 **PROPERTIES OR ANY APPRAISALS.**

13 **(B) A FORECLOSURE CONSULTANT OWES THE SAME DUTY OF CARE TO A**
14 **HOMEOWNER AS A LICENSED REAL ESTATE BROKER OWES TO A CLIENT UNDER §**
15 **17-532 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.**

16 Part III. [Foreclosure Purchases] **SALES OR TRANSFERS OF RESIDENCES IN**
17 **DEFAULT.**

18 **7-310.**

19 **IN ADDITION TO ANY OTHER RIGHT UNDER LAW TO CANCEL A CONTRACT,**
20 **IF A CONTRACT FOR THE SALE OR TRANSFER OF A RESIDENCE IN DEFAULT IS**
21 **INCLUDED IN A FORECLOSURE CONSULTING CONTRACT OR ARRANGED BY A**
22 **FORECLOSURE CONSULTANT, THE HOMEOWNER OF THE RESIDENCE IN**
23 **DEFAULT HAS THE RIGHT TO CANCEL THE CONTRACT FOR THE SALE OR**
24 **TRANSFER WITHIN 5 DAYS AFTER THE EXECUTION OF THE CONTRACT.**

25 **[7-310.] 7-311.**

26 **(A) THIS SECTION APPLIES TO A CONTRACT FOR THE SALE OR**
27 **TRANSFER OF A RESIDENCE IN DEFAULT THAT IS INCLUDED IN A FORECLOSURE**
28 **CONSULTING CONTRACT OR ARRANGED BY A FORECLOSURE CONSULTANT.**

29 **[(a)] (B) [If a foreclosure reconveyance is included in a foreclosure**
30 **consulting contract or arranged after the execution of a foreclosure consulting**
31 **contract, the foreclosure] IN ADDITION TO ANY OTHER REQUIREMENT UNDER LAW,**
32 **THE purchaser OF A RESIDENCE IN DEFAULT shall provide the homeowner with a**
33 **document entitled "Notice [of Transfer of Deed or Title] TO HOMEOWNER".**

1 **[(b)] (C)** The document entitled “Notice [of Transfer of Deed or Title] **TO**
2 **HOMEOWNER**” shall:

3 (1) Contain the [entire agreement of the parties] **TOTAL SALES**
4 **PRICE OF THE RESIDENCE IN DEFAULT AND AN EXPLANATION OF THE**
5 **DISTRIBUTION OF THE PROCEEDS OF THE SALE, INCLUDING ANY PAYMENTS TO**
6 **ANY PARTIES, INCLUDING THE FORECLOSURE CONSULTANT;**

7 (2) Be printed in 12 point type and written in the same language that
8 is used by the homeowner and was used in discussions to describe the foreclosure
9 consultant’s or [foreclosure] purchaser’s services or to negotiate the transfer or sale of
10 the property;

11 (3) Be dated and personally signed by the homeowner and the
12 [foreclosure] purchaser and witnessed and acknowledged by a notary public appointed
13 and commissioned by the State;

14 (4) Describe in detail the terms of any [foreclosure conveyance] **SALE**
15 **OR TRANSFER** including:

16 (i) The name, business address, telephone number, and
17 facsimile number of the person to whom the deed or title will be **SOLD OR** transferred;

18 (ii) The address of the residence in [foreclosure] **DEFAULT;**

19 (iii) The total consideration to be given **OR RECEIVED,**
20 **DIRECTLY OR INDIRECTLY,** by the [foreclosure] **HOMEOWNER,** purchaser, **AND** the
21 foreclosure consultant[, and any other party as a result of the transfer];

22 (iv) The time at which title is to be **SOLD OR** transferred to the
23 [foreclosure] purchaser [and the terms of any conveyance]; **AND**

24 (v) Any financial or legal obligations [that] **TO WHICH** the
25 homeowner may remain subject [to, including a description of any mortgages, liens, or
26 other obligations that will remain in place;

27 (vi) A description of any services of any nature that the
28 foreclosure purchaser will perform for the homeowner before or after the sale or
29 transfer;

30 (vii) A complete description of the terms of any related
31 agreement designed to allow the homeowner to remain in the home, including the
32 terms of any rental agreement, repurchase agreement, contract for deed, land
33 installment contract, or option to buy, and any provisions for eviction or removal of the
34 homeowner in the case of late payment; and

1 (viii) How any repurchase price or fee associated with any
2 transfer of title or deed back to the homeowner will be calculated.]; **AND**

3 (5) Contain the following statement printed in at least 14 point
4 boldface type and located in immediate proximity to the space reserved for the
5 homeowner's signature:

6 "If you change your mind about **SELLING OR** transferring ownership of
7 your property, you, the homeowner, may [rescind] **CANCEL** the **CONTRACT**
8 **FOR THE SALE OR** transfer of the deed or title to your property any time within
9 the next [3] **5** days. **SEE THE ATTACHED NOTICE OF RIGHT TO CANCEL**
10 **CONTRACT FOR THE SALE OR TRANSFER OF DEED OR TITLE.** [As part of]
11 **AFTER** any [rescission] **CANCELLATION**, you must repay, within 60 days, any
12 money spent on your behalf as a result of this agreement, along with interest
13 calculated at the rate of 8% a year.

14 **THIS IS AN IMPORTANT LEGAL CONTRACT AND COULD RESULT**
15 **IN THE LOSS OF YOUR HOME. CONTACT AN ATTORNEY BEFORE**
16 **SIGNING."**

17 [(c) (D) (1) [If a foreclosure reconveyance is included in a foreclosure
18 consulting contract or arranged after the execution of a foreclosure consulting
19 contract, the foreclosure] **THE** purchaser shall provide the homeowner with a
20 document entitled "NOTICE OF RIGHT TO CANCEL **CONTRACT FOR THE SALE**
21 **OR TRANSFER OF DEED OR TITLE**".

22 (2) The **DOCUMENT ENTITLED "NOTICE OF RIGHT TO CANCEL**
23 **CONTRACT FOR THE SALE OR TRANSFER OF DEED OR TITLE"** shall:

24 (i) Be a separate document and not printed on the back of any
25 other document; and

26 (ii) Contain the following statement printed in at least 14 point
27 type:

28 "NOTICE OF RIGHT TO CANCEL **CONTRACT FOR THE SALE OR**
29 **TRANSFER OF DEED OR TITLE**

30 (Date)

31 You may cancel [or rescind] the **CONTRACT FOR THE SALE OR** transfer
32 of ownership of your property [through the transfer of a deed or title] within [3]
33 **5** business days after the date you sign this document **AND ARE NOTIFIED OF**
34 **THIS RIGHT.**

1 To [rescind] **CANCEL** this [transaction] **CONTRACT**, mail or deliver a
 2 signed and dated copy of this Notice, or any other written notice expressing a
 3 similar intent to (name of [foreclosure consultant] **PURCHASER**) at (address of
 4 [foreclosure consultant] **PURCHASER**, including facsimile and electronic mail).

5 [As part of] **AFTER** any [rescission] **CANCELLATION**, you (the
 6 homeowner) must repay any money spent on your behalf as a result of this
 7 agreement, within 60 days, along with interest calculated at the rate of 8% a
 8 year.

9 **THIS IS AN IMPORTANT LEGAL CONTRACT AND COULD RESULT**
 10 **IN THE LOSS OF YOUR HOME. CONTACT AN ATTORNEY BEFORE**
 11 **SIGNING.**

12 **NOTICE OF [RESCISSION] CANCELLATION**

13 **TO:** (name of [foreclosure consultant] **PURCHASER**)

14 (address of [foreclosure consultant] **PURCHASER**, including facsimile and
 15 electronic mail)

16 I hereby [rescind] **CANCEL** the **CONTRACT FOR THE SALE OR** transfer
 17 of deed or title to my property. Please return all executed documents to me.

18 (Date)

19 (Homeowner's signature)".

20 [(d)] **(E)** The [foreclosure] purchaser shall provide the homeowner with a
 21 copy of the Notice of Right to Cancel **CONTRACT FOR THE SALE OR** Transfer of Deed
 22 or Title immediately on execution of any document that includes [a foreclosure
 23 reconveyance] **AN AGREEMENT TO SELL OR TRANSFER.**

24 [(e)] **(F)** The time during which the homeowner may [rescind] **CANCEL** the
 25 contract **FOR THE SALE** or transfer does not begin to run until the [foreclosure]
 26 purchaser has complied with this [section] **PART.**

27 [(f)] **(G)** Any provision in a [foreclosure consulting] contract or other
 28 agreement concerning a [foreclosure reconveyance] **SALE OR TRANSFER OF A**
 29 **RESIDENCE ON DEFAULT** that attempts or purports to waive the homeowner's rights
 30 under this [section] **TITLE**, consent to jurisdiction for litigation or choice of law in a
 31 state other than Maryland, consent to venue in a county other than the county in
 32 which the property is located, or impose any costs or filing fees greater than the fees
 33 required to file an action in a circuit court, is void.

1 [(g)] (H) A [foreclosure reconveyance] **SALE OR TRANSFER OF A**
2 **RESIDENCE IN DEFAULT** may not be carried out using:

3 (1) [a] **A power of attorney from the homeowner; OR**

4 (2) **A QUIT CLAIM DEED.**

5 [(h)] (I) A notice of [rescission] **CANCELLATION** need not take the
6 particular form specified in this [subtitle] **SECTION** or any form contained in any
7 agreement with the [foreclosure consultant or foreclosure] purchaser and is effective,
8 however expressed, if it indicates the intention of the homeowner to [rescind] **CANCEL**
9 the [reconveyance agreement] **CONTRACT**.

10 [(i)] (J) The right to [rescind] **CANCEL** may not be conditioned on the
11 repayment of any funds.

12 [(j)] (K) Within 10 days after receipt of a notice of [rescission]
13 **CANCELLATION** given in accordance with this [subtitle] **SECTION**, the [foreclosure]
14 purchaser shall return, without condition, any original deed, title, contract, and any
15 other document signed by the homeowner.

16 [(k)] (L) During the [3-day] **5-DAY** [rescission] **CANCELLATION** period, a
17 deed or other document affecting title to the homeowner's residence **IN DEFAULT** may
18 not be recorded.

19 **[7-311.] 7-312.**

20 [(a)] (1) In this section the following words have the meanings indicated.

21 (2) “Primary housing expenses” means the total amount required to
22 pay regular principal, interest, rent, utilities, hazard insurance, real estate taxes, and
23 association dues on a property.

24 (3) “Resale” means a bona fide market sale of property subject to a
25 foreclosure reconveyance by the foreclosure purchaser to an unaffiliated third party.

26 (4) “Resale price” means the gross sale price of a property on resale.

27 (5) “Settlement” means an in-person, face-to-face meeting with the
28 homeowner to complete final documents incident to the sale or transfer of real
29 property, or the creation of a mortgage or equitable interest in real property,
30 conducted by a settlement agent who is not employed by or an affiliate of the
31 foreclosure purchaser, during which the homeowner must be presented with a
32 completed copy of the HUD-1 Settlement Form.

33 [(b)] A [foreclosure] purchaser **OF A RESIDENCE IN DEFAULT** may not:

1 (1) [Enter into, or attempt to enter into, a foreclosure reconveyance
2 with a homeowner unless:

3 (i) The foreclosure purchaser verifies and can demonstrate that
4 the homeowner has or will have a reasonable ability to pay for the subsequent
5 reconveyance of the property back to the homeowner on completion of the terms of a
6 foreclosure conveyance, or, if the foreclosure conveyance provides for a lease with an
7 option to repurchase the property, the homeowner has or will have a reasonable ability
8 to make the lease payments and repurchase the property within the term of the option
9 to repurchase;

10 (ii) The foreclosure purchaser and the homeowner complete a
11 formal settlement before any transfer of an interest in the property is effected; and

12 (iii) The foreclosure] **COMPLETE A SALE OR TRANSFER OF**
13 **THE RESIDENCE IN DEFAULT UNTIL THE** purchaser complies with the requirements
14 of the federal Home Ownership Equity Protection Act, 15 U.S.C. 1639, and its
15 implementing regulations [for any foreclosure reconveyance in which the homeowner
16 obtains a vendee interest in a contract for deed];

17 (2) [Fail to:

18 (i) Ensure that title to the property has been reconveyed to the
19 homeowner in a timely manner if this subtitle or the terms of a foreclosure
20 reconveyance agreement require a reconveyance; or

21 (ii) Make payment to the homeowner within 90 days of any
22 resale of the property so that the homeowner receives cash payments or consideration
23 in an amount equal to at least 82% of the net proceeds from any resale of the property
24 should a property subject to a foreclosure reconveyance be sold within 18 months after
25 entering into a foreclosure reconveyance agreement;

26 (3) Enter into repurchase or lease terms as part of the foreclosure
27 conveyance that are unfair or commercially unreasonable, or engage in any other
28 unfair conduct;

29 (4)] Represent, directly or indirectly, that:

30 (i) The [foreclosure] purchaser is acting as an advisor or a
31 consultant, or in any other manner represent that the [foreclosure] purchaser is acting
32 on behalf of the homeowner;

33 (ii) The [foreclosure] purchaser has certification or licensure
34 that the [foreclosure] purchaser does not have;

1 (iii) The [foreclosure] purchaser is assisting the homeowner to
2 “save the house” or use a substantially similar phrase; or

3 (iv) The [foreclosure] purchaser is assisting the homeowner in
4 preventing a foreclosure if the result of the transaction is that the homeowner will [not
5 complete a redemption of the property] **NO LONGER OWN THE PROPERTY**;

6 [(5) (3) Make any other statements, directly or by implication, or
7 engage in any other conduct that is false, deceptive, or misleading, or that has the
8 likelihood to cause confusion or misunderstanding, including statements regarding the
9 value of the residence in [foreclosure] **DEFAULT**, the amount of proceeds the
10 homeowner will receive after a [foreclosure] sale **OR TRANSFER**, any contract term, or
11 the homeowner’s rights or obligations incident to or arising out of the [foreclosure
12 reconveyance] **SALE OR TRANSFER**; or

13 [(6) (4) Until the homeowner’s right to [rescind or] cancel the
14 transaction has expired:

15 (i) Record any document, including an instrument of
16 conveyance, signed by the homeowner; or

17 (ii) Transfer or encumber or purport to transfer or encumber
18 any interest in the residence in [foreclosure] **DEFAULT** to any third party.

19 [(c) For purposes of subsection (b)(1) of this section, there is a rebuttable
20 presumption that:

21 (1) A homeowner has a reasonable ability to pay for a subsequent
22 reconveyance of the property if the homeowner’s payments for primary housing
23 expenses and regular principal and interest payments on other personal debt, on a
24 monthly basis, do not exceed 60% of the homeowner’s monthly gross income; and

25 (2) The foreclosure purchaser has not verified reasonable payment
26 ability if the foreclosure purchaser has not obtained documents other than a statement
27 by the homeowner of assets, liabilities, and income.

28 (d) (1) The foreclosure purchaser shall make a detailed accounting of the
29 basis for the amount of a payment made to the homeowner of a property resold within
30 18 months after entering into a foreclosure reconveyance agreement, in accordance
31 with (b)(2)(ii) of this section.

32 (2) The accounting shall be on a form prescribed by the Attorney
33 General in consultation with the Commissioner of Financial Regulation and shall
34 include detailed documentation of expenses and other consideration paid by the
35 foreclosure purchaser and deducted from the resale price.

1 (e) A bona fide purchaser for value or bona fide lender for value who enters
2 into a transaction with a homeowner or a foreclosure purchaser when a foreclosure
3 consulting contract is in effect or during the period when a foreclosure reconveyance
4 may be rescinded, without notice of those facts, receives good title to the property, free
5 and clear of the right of the parties to the foreclosure consulting contract or the right
6 of the homeowner to rescind the foreclosure reconveyance.

7 (f) This subtitle may not be construed to impose any duty on a purchaser,
8 title insurer, or title insurance producer with respect to the application of the proceeds
9 of a sale of property by a foreclosure purchaser.]

10 **7-313.**

11 (A) (1) IF A TENANCY AGREEMENT IS INCLUDED IN A CONTRACT FOR
12 THE SALE OR TRANSFER OF A RESIDENCE IN DEFAULT, THE PURCHASER SHALL
13 PROVIDE THE HOMEOWNER WITH A DOCUMENT ENTITLED "STATEMENT
14 ABOUT TENANCY" AT THE TIME THE CONTRACT IS EXECUTED.

15 (2) THE DOCUMENT ENTITLED "STATEMENT ABOUT
16 TENANCY" SHALL:

17 (I) BE ON A SEPARATE SHEET OF PAPER ATTACHED TO THE
18 CONTRACT FOR THE SALE OR TRANSFER OF A RESIDENCE IN DEFAULT;

19 (II) BE DATED AND PERSONALLY SIGNED BY THE
20 HOMEOWNER AND THE PURCHASER AND BE WITNESSED AND ACKNOWLEDGED
21 BY A NOTARY PUBLIC APPOINTED AND COMMISSIONED BY THE STATE;

22 (III) CONTAIN A STATEMENT INFORMING THE HOMEOWNER
23 OF THE HOMEOWNER'S RIGHT TO A COPY OF A SIGNED LEASE; AND

24 (IV) CONTAIN THE FOLLOWING STATEMENT PRINTED IN AT
25 LEAST 15 POINT TYPE:

26 "STATEMENT ABOUT TENANCY

27 (DATE OF CONTRACT)

28 I AGREE TO SELL MY HOME. I UNDERSTAND THAT I WILL NO LONGER HAVE AN
29 OWNERSHIP INTEREST IN OR ANY OTHER RIGHT TO OWN THIS PROPERTY. EVEN
30 THOUGH I MAY BE ABLE TO LIVE ON THE PREMISES AS A TENANT, I WILL HAVE
31 NO RIGHT TO REPURCHASE THIS PROPERTY OR TO OBTAIN ANY OTHER KIND OF
32 OWNERSHIP INTEREST. IF I DO NOT PAY THE RENT AS AGREED, I MAY BE
33 SUBJECT TO EVICTION. AS A TENANT, I AM ENTITLED TO RECEIVE A WRITTEN
34 LEASE FROM THE NEW OWNER OF THE PROPERTY."

1 **(B) THE PURCHASER SHALL PROVIDE THE HOMEOWNER WITH A SIGNED**
2 **AND DATED COPY OF THE DOCUMENT ENTITLED “STATEMENT ABOUT**
3 **TENANCY” IMMEDIATELY UPON EXECUTION OF THE CONTRACT FOR THE SALE**
4 **OR TRANSFER OF THE RESIDENCE IN DEFAULT.**

5 **(C) THE TIME DURING WHICH THE HOMEOWNER MAY CANCEL THE**
6 **CONTRACT FOR THE SALE OR TRANSFER OF A RESIDENCE IN DEFAULT UNDER §**
7 **7-310 OF THIS SUBTITLE DOES NOT BEGIN TO RUN UNTIL THE PURCHASER HAS**
8 **COMPLIED WITH THIS SECTION.**

9 7-314.

10 (a) Each foreclosure surplus acquisition shall be in the form of a written
11 contract.

12 (b) Each foreclosure surplus acquisition contract shall:

13 (1) Contain the entire agreement of the parties;

14 (2) Be printed in at least 12 point type, in the same language that is
15 used by the homeowner and was used by the foreclosure surplus purchaser and the
16 homeowner to negotiate the sale of the residence in foreclosure;

17 (3) Be fully completed, dated, and personally signed by the homeowner
18 and the foreclosure surplus purchaser before the statement of account has been
19 referred to the auditor; and

20 (4) Include:

21 (i) The name, business address, and telephone number of the
22 foreclosure surplus purchaser;

23 (ii) The address of the residence in foreclosure;

24 (iii) The total consideration to be given by the foreclosure
25 surplus purchaser in connection with or incident to the transaction;

26 (iv) A complete description of the terms of payment or other
27 consideration, including any services of any nature that the foreclosure surplus
28 purchaser represents the foreclosure surplus purchaser will perform for the
29 homeowner before or after the sale; and

30 (v) The following notice, which shall be printed in at least 14
31 point boldface type, completed with the name of the foreclosure surplus purchaser, and
32 located in immediate proximity to the space reserved for the homeowner’s signature:

1 "NOTICE REQUIRED BY MARYLAND LAW

2 If you have any questions about this document, seek legal counsel before
3 signing. This is an important legal contract. Failure to read and understand
4 these documents may cause you to lose valuable rights.

5 The effect of these documents is that you may lose the equity in your
6 home. This agreement will not stop the foreclosure or get your house back. If
7 you believe the foreclosure sale was improper, you should immediately seek
8 legal advice to determine what objections to ratification or to [rescind] **CANCEL**
9 the order of ratification may be filed.

10 You may [rescind] **CANCEL** this contract for the sale of your house
11 without any penalty or obligation at any time within 10 days after the auditor
12 states the account of the foreclosure sale. See the attached Notice of
13 [Rescission] **CANCELLATION** form for an explanation of this right. [As part of]
14 **AFTER** the [rescission] **CANCELLATION**, you must repay from the surplus
15 proceeds any consideration received, directly or indirectly, together with an
16 amount for interest calculated at the rate of 8% a year."

17 (c) (1) The contract shall be accompanied by a completed form in
18 duplicate, captioned "Notice of [Rescission] **CANCELLATION**".

19 (2) The Notice of [Rescission] **CANCELLATION** shall:

- 20 (i) Be on a separate sheet of paper attached to the contract;
- 21 (ii) Be easily detachable; and
- 22 (iii) Contain the following statement printed in at least 15 point
23 type:

24 "NOTICE OF [RESCISSION] **CANCELLATION**

25 (Date of contract)

26 You may [rescind] **CANCEL** this contract for the sale of your house at any
27 time within 10 days after the auditor states the account of the foreclosure sale.

28 To cancel this transaction, mail or deliver a signed and dated copy of this
29 Notice of [Rescission] **CANCELLATION** to (Name of
30 purchaser) at (Address of purchaser, including
31 facsimile and electronic mail) with a copy to the court appointed auditor.

32 I hereby [rescind] **CANCEL** this transaction.

1 (Date)

2 (Homeowner’s signature)”.

3 (d) The foreclosure surplus purchaser shall provide the homeowner with a
4 copy of the contract and the attached Notice of [Rescission] **CANCELLATION** at the
5 time the contract is executed by all parties.

6 (e) The contract required by this section survives delivery of any instrument
7 of conveyance of the residence in foreclosure, is binding in the audit, and has no effect
8 on persons other than the parties to the contract.

9 (f) Any provision in a contract that attempts or purports to waive any of the
10 rights specified in this title, consent to jurisdiction or choice of law in a state other
11 than Maryland, consent to venue in a county other than the county in which the
12 property is located, or impose any costs or filing fees greater than the fees required to
13 file an action in a circuit court, is void.

14 7–315.

15 (a) In addition to any other right [of rescission] **TO CANCEL**, a homeowner
16 has the right to [rescind] **CANCEL** any contract with a foreclosure surplus purchaser
17 at any time within 10 days after the statement of audit account of the foreclosure sale.

18 (b) (1) [Rescission] **CANCELLATION** occurs when the homeowner
19 delivers, by any means, written Notice of [Rescission] **CANCELLATION** to the address
20 specified in the contract, with a copy to the auditor. As part of the [rescission]
21 **CANCELLATION**, the homeowner shall repay any consideration received directly or
22 indirectly, together with interest calculated at the rate of 8% a year.

23 (2) On receipt of the Notice of [Rescission] **CANCELLATION**, the
24 auditor shall restate the account. The repayment of consideration and interest by the
25 homeowner shall be incorporated by the auditor into the revised statement of account
26 filed with the court.

27 (3) Upon ratification of the amended audit, the attorney named in the
28 mortgage, mortgage assignee for purposes of foreclosure, trustee, or substitute trustee
29 in making distribution of the surplus funds shall comply with the revised
30 court–approved audit.

31 (c) A Notice of [Rescission]**CANCELLATION** given by a homeowner need not
32 be in the form provided with the contract and is effective, however expressed, if it
33 indicates the intention of the homeowner to [rescind] **CANCEL** the contract.

34 (d) The right to [rescind] **CANCEL** may not be conditioned on the repayment
35 of any funds.

1 (e) Within 10 days after receipt of a Notice of [Rescission] **CANCELLATION**
2 given in accordance with this section, the foreclosure surplus purchaser shall return,
3 without condition, the original contract and all other documents signed by the
4 homeowner.

5 7-318.

6 (a) A person may not induce or attempt to induce a homeowner to waive the
7 homeowner's rights under this subtitle.

8 (b) Any waiver by a homeowner of the provisions of this subtitle is void and
9 unenforceable as contrary to public policy.

10 **7-318.1.**

11 **IT IS A VIOLATION OF THIS SUBTITLE IF A FORECLOSURE CONSULTANT:**

12 **(1) FAILS TO OBTAIN A REAL ESTATE BROKER'S LICENSE AS**
13 **REQUIRED UNDER § 7- 308 OF THIS SUBTITLE; OR**

14 **(2) VIOLATES ANY PROVISION OF TITLE 17 OF THE BUSINESS**
15 **OCCUPATIONS AND PROFESSIONS ARTICLE.**

16 7-319.

17 (a) The Attorney General **OR THE COMMISSIONER** may seek an injunction
18 to prohibit a person who has engaged or is engaging in a violation of this subtitle from
19 engaging or continuing to engage in the violation.

20 (b) The court may enter any order or judgment necessary to:

21 (1) Prevent the use by a person of any prohibited practice;

22 (2) Restore to a person any money or real or personal property
23 acquired from the person by means of any prohibited practice; or

24 (3) Appoint a receiver in case of willful violation of this title.

25 (c) In any action brought by the Attorney General **OR THE COMMISSIONER**
26 under this section, the Attorney General **OR THE COMMISSIONER** is entitled to
27 recover the costs of the action for the use of the State.

28 **(D) A VIOLATION OF THIS SUBTITLE IS AN UNFAIR OR DECEPTIVE**
29 **TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THE COMMERCIAL**
30 **LAW ARTICLE AND IS SUBJECT TO THE ENFORCEMENT AND PENALTY**
31 **PROVISIONS CONTAINED IN TITLE 13 OF THE COMMERCIAL LAW ARTICLE.**

1 7-320.

2 (a) In addition to any action by the Attorney General **OR THE**
3 **COMMISSIONER** authorized under this subtitle and any other action otherwise
4 authorized by law, a homeowner may bring an action for damages incurred as the
5 result of a practice prohibited by this subtitle.

6 (b) A homeowner who brings an action under this section and who is
7 awarded damages may also seek, and the court may award, reasonable attorney's fees.

8 (c) If the court finds that the defendant willfully or knowingly violated this
9 subtitle, the court may award damages equal to three times the amount of actual
10 damages.

11 7-321.

12 (a) A person who violates any provision of this subtitle is guilty of a
13 misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a
14 fine not exceeding \$10,000 or both.

15 (b) A person who violates this subtitle is subject to § 5-106(b) of the Courts
16 Article.

17 **7-322.**

18 (A) **IF A CRIMINAL PROSECUTION UNDER THIS SUBTITLE RESULTS IN A**
19 **CONVICTION, THE ATTORNEY GENERAL OR THE STATE'S ATTORNEY WHO HAS**
20 **PROSECUTED THE CASE SHALL NOTIFY THE COMMISSIONER IN WRITING OF THE**
21 **CONVICTION WITHIN 30 DAYS OF THE CONVICTION.**

22 (B) **THE NOTICE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION**
23 **SHALL INCLUDE:**

24 (1) **THE NAME AND ADDRESS OF THE PERSON CONVICTED; AND**

25 (2) **A COPY OF THE JUDGMENT IN THE CRIMINAL CASE.**

26 **7-323. RESERVED.**

27 **7-324. RESERVED.**

28 **PART VI. SHORT TITLE.**

29 **7-325.**

1 **THIS SUBTITLE MAY BE CITED AS THE “PROTECTION OF HOMEOWNERS IN**
2 **FORECLOSURE ACT”.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 June 1, 2008.